Supreme Court, U.S.
FILED
001759 MAY 23 2001
OFFICE OF THE CLERK

No. _____

In The

Supreme Court of the United States

In Re: DELBERT H. REIDT,

Petitioner.

On Petition For A Writ Of Mandamus

PETITION FOR WRIT OF MANDAMUS

DELBERT H. REIDT PRO SE
530 East Patriot Boulevard
Apt. K-230
Reno, NV 89511
Tel. (775) 852-4643

QUESTION PRESENTED FOR REVIEW

I

Is the first order of business in the filing of any complaint for the presiding judge to make a legal ruling as to whether the complaint is sufficient to proceed to trial, Fed. R. Civ. P. 8, 16, 54(b), 28 U.S.C.A. 1346(b), 28 U.S.C.A. 2674, 5 U.S.C.A. 552a(d), (g), 10 U.S.C.A. 1552(a)-(e)?

II

Where the district courts Ninth Circuit failed or refused to certify any of their rulings for appellate review under Fed. R. Civ. P. 54(b), 28 U.S.C.A. 1291 or 28 U.S.C.A. 1292(b) may mandamus issue in order to review all complaints for legal sufficiency, 28 U.S.C.A. 1651(a), Supreme Court Rules 10(a), 20.1?

III

Where the Department of Transportation Board for Correction of Military Records; the FOIA/PA Officer, Secretary of Transportation; the district courts at San Jose, CA, Seattle, WA, Reno, NV; the Ninth Circuit; the U.S. Court of Federal Claims; the United States Court of Appeals for the Federal Circuit *ALL* failed or refused to correct the historical error in not informing petitioner of his several phobic disorders from PHS Microfilm Reel 72-884 Final Medical Certificate DD 214 Form, or Discharge papers or to correct the foregoing under 5 U.S.C.A. 552a(d), (g), 10 U.S.C.A. 1552(a)-(e), may mandamus issue from this

QUESTION PRESENTED FOR REVIEW – Continued

Court to Order correction of said records in the complaint in No. CV-N-00-0297ECR (D.C. NV) (DKT 1); and Motion for Default (DKT 11), or motion to make ruling on complaint for legal sufficiency (DKT 57), 28 U.S.C.A. 1651(a), S. Ct. Rules 10(a), 20.1, 28 U.S.C.A. 2106, or remand to district court for judication?

IV

Where defendants-respondents timely failed or refused disability status and pay under 10 U.S.C.A. 1201 from 1952 to present may petitioner ask the Court to waive *Feres Immunity, Feres v. United States,* 340 U.S. 135, 71 S.Ct. 153, 95 L.Ed. 152 (1950), and recover for 49 years of pain and suffering, emotional trauma, years and years of anxiety and panic attacks, post-service loss of wages due to inability to engage in gainful, substantial employment opportunities, Fed. R. Civ. P. 8(a)(3)?

V.

Where same claims of historical error in Military Records were made in both the United States District Court and the United States Court of Federal Claims may the cases be joined in this Court for joint review under Supreme Court Rule 18.2 or any other statute or rule unknown to petitioner pro se?

PARTIES

Delbert H. Reidt Pro se petitioner

530 East Patriot Boulevard Apt. K-230, Reno, NV 89511 Tel. (775) 852-4643

District Judge Edward C. Reed, Jr. – Respondent presiding judge in *Reidt v. United States, et als.*, No. CV-N-00-0297ECR (D.C. NV), U.S. District Court for Nevada, U.S. Court House, 400 South Virginia St., Reno, NV 89501, Tel. (775) 686-5919

Shirley Smith, Attorney-Respondent, Attorney for defendant-respondents in No. CV-N-00-0297ECR (D.C. NV), U.S. Attorney's Office, 100 West Liberty, Suite 600, Reno, NV 89501 Tel. (775) 784-5438

Current Chairman, Board for Correction of Military Records-Respondent, Office of the Secretary (C-60), Office of the General Counsel, Department of Transportation, 400 Seventh St. S.W. Washington, D.C. 20590 Tel. unknown at this time

Norman Mineta, Current Secretary of Transportation-Respondent Office of the Secretary, Office of the General Counsel, Department of Transportation, 400 Seventh St. S.W., Washington, D.C. 20590 Tel. unknown at this time

Lt. David Fajerski or Current FOIA/PA Co-ordinator-Respondent U.S. Coast Guard, Staff Symbol G-KRM-3 2100 Second St. S.W. Washington, D.C. 20593-0001 Tel. unknown at this time

Chief Judge Procter R. Hug-Respondent, Architect of prefiling review order No. 92-80380 (In re: Delbert H. Reidt,

PARTIES – Continued

Respondent) U.S. Court of Appeals for the Ninth Circuit, Office of the Clerk, U.S. Court of Appeals for the Ninth Circuit, 95 Seventh St. P. O. Box 193939, San Francisco, CA 94119-3939. Tel. unknown

Chief Judge John C. Coughenour for D.C. WWS-Respondent, Office of the Clerk, U.S. District Court for Western Washington, U.S. Court House, 1010 Fifth Ave., Seattle, WA 98104 Tel. unknown Judge Coughenour presided over *Reidt v. United States, et als.*, No. CV-98-1725JCC (D.C. WWS)

District Judge Thomas Zilly, Respondent, presided over *Reidt v. United States, et als.*, No. CV-97-276Z (D.C. WWS), Office of the Clerk, U.S. District Court for Western Washington, U.S. Court House, 1010 Fifth Ave. Seattle, WA 98104 Tel. unknown at this time

District Judge William L. Dwyer (retired)-Respondent presided over *Reidt v. United States, et als.*, No. CV-96-344WLD (D.C. WWS), Office of the Clerk, U.S. District Court for Western Washington, 1010 Fifth Avenue, Seattle, WA 98104 Tel. unknown

District Judge Ronald M. Whyte-Respondent, presided over *Reidt v. United States, et als.*, No. CV-93-20180 (D.C. ND CA), Office of the Clerk, U.S. District Court, Northern California, U.S. Court House, 280 South First St. San Jose, CA 95113 Tel. unknown

District Judge William A. Ingram-Respondent, presided over *Reidt v. United States, et als.*, No's C-89-20510WAI (D.C. ND CA); C-89-20526WAI (D.C. ND CA);

PARTIES – Continued

CV-89-20527WAI (D.C. ND CA) Office of the Clerk, U.S. District Court for Northern California, U.S. Court House, 280 South First St., San Jose, CA 95113 Tel. unknown at this time

District Judge Robert P. Aguilar-respondent, presided over first case of petitioner *Reidt v. United States, et als.*, No. C-84-20566RPA (D.C. ND CA), Office of the Clerk, U.S. District Court for Northern California, U.S. Court House, 280 South First St., San Jose, CA 95113, Tel. unknown at this time

Current Chief Judge-Respondent U.S. Court of Appeals for the Federal Circuit, initiator of *Reidt v. United States, et als.*, Federal Circuit No. 88-1158 denying petitioner full and fair opportunity to adjudicate claim for correction of Military Records set forth in DKT 1 CV-N-00-0297ECR (D.C. NV) under 28 U.S.C.A. 1491(a), 10 U.S.C.A. 1552(a)-(e) Office of the Clerk, U.S. Court of Appeals for the Federal Circuit, The National Courts Building, 717 Madison Pl. N.W., Washington, D.C. 20439 Tel. unknown at this time

Claims Court Judge Kenneth R. Harkins-Respondent presided over CL. CT. *Reidt v. United States, et als.*, No. 490-85C who refused to adjudicate claim for disability status and pay, or correction of military records under 28 U.S.C.A. 1491(a), 10 U.S.C.A. 1552(a)-(e) Office of the Clerk, U.S. Court of Federal Claims, 717 Madison Place N.W., The National Courts Building, Washington, D.C. 20005 Tel. unknown at this time

PARTIES – Continued

Barbara Underwood, Acting Solicitor General, U.S. Department of Justice, Room 5259, 950 Pennsylvania Avenue, NW, Washington, D.C. 20530-0001 Tel. (202) 514-2217

TABLE OF CONTENTS

Page

CITATION TO ORDER BELOW 1

JURISDICTION 1

CONSTITUTIONAL PROVISIONS 2

HOW THE WRIT BE IN AID OF THE COURT'S APPELLATE JURISDICTION 3

EXCEPTIONAL CIRCUMSTANCES THAT WARRANT THE COURT'S DISCRETIONARY POWERS TO INTERVENE 4

WHY ADEQUATE RELIEF CANNOT BE HAD IN ANY OTHER FORM OR ANY OTHER COURT .. 5

I. IS THE FIRST ORDER OF BUSINESS IN THE FILING OF ANY COMPLIANT FOR THE PRESIDING JUDGE TO MAKE A LEGAL RULING AS TO WHETHER THE COMPLAINT IS SUFFICIENT TO PROCEED TO TRIAL, FED. R. CIV. P. 8, 16, 54(b), 28 U.S.C.A. 1346(b), 28 U.S.C.A. 2674, 5 U.S.C.A. 522a(d), (g), 10 U.S.C.A. 1552(a)-(e)? 5

II. WHERE THE DISTRICT COURT, NINTH CIRCUIT FAILED OR REFUSED TO CERTIFY ANY OF THEIR RULINGS FOR APPELLATE REVIEW UNDER FED. R. CIV. P. 54(b), 28 U.S.C.A. 1291 or 1292(b) MAY MANDAMUS ISSUE IN ORDER TO REVIEW ALL COMPLAINTS FOR LEGAL SUFFICIENCY, 28 U.S.C.A. 1651(a), S. CT. RULES 10(a), 20.1? .. 6

TABLE OF CONTENTS – Continued

Page

III. WHERE THE DEPARTMENT OF TRANSPORTATION BOARD FOR CORRECTION OF MILITARY RECORDS; THE FOIA/PA OFFICER; SECRETARY OF TRANSPORTATION; THE DISTRICT COURTS AT SAN JOSE, CA., SEATTLE, WA., OR RENO, NV.; THE NINTH CIRCUIT; UNITED STATES COURT OF FEDERAL CLAIMS; THE UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT ALL FAILED OR REFUSED TO CORRECT THE HISTORICAL ERROR IN NOT INFORMING PETITIONER IN 1952 OF HIS PHOBIC DISORDERS FROM PHS MICROFILM REEL 72-884 SHOWN BY DR. LASH AND DR. KLEMPERER (deceased) AND/OR THEIR FAILURE OR REFUSAL TO CORRECT THE FINAL MEDICAL CERTIFICATE, DD 214 FORM, DISCHARGE PAPERS TO INCLUDE THE HEAD TRAUMA FOR WHICH I WAS NOT TREATED IN 1952, THE DIAGNOSES OF DR. LASH AND DR. KLEMPERER UNDER 5 U.S.C.A. 552a(d), (g), 10 U.S.C.A. 1552(a)-(e) MAY MANDAMUS ISSUE FROM THIS COURT TO ORDER THE SECRETARY OF TRANSPORTATION, THE CORRECTION BOARD, THE FOIA/PA TO CORRECT ALL MILITARY RECORDS SET FORTH IN THE COMPLAINT, DKT. 1: AND MOTION FOR DEFAULT, (DKT 11), or MOTION TO MAKE RULING ON COMPLAINT FOR SUFFICIENCY OR TO MAKE A RULING ON THE COMPLAINT FOR LEGAL SUFFICIENCY (DKT 57), 28 U.S.C.A. 1651(a), S. Ct. RULES 10(a), 20.1? .. 7

TABLE OF CONTENTS – Continued

Page

IV. WHERE DEFENDANT-RESPONDENT TIMELY FAILED OR REFUSED DISABILITY STATUS AND PAY UNDER 10 U.S.C.A. 1201 FROM 1952 TO PRESENT MAY PETITIONER ASK THE COURT TO *WAIVE FERES IMMUNITY, FERES V. UNTIED STATES*, 340 U.S. 135 (1950) AND ALLOW PETITIONER TO RECOVER FOR 49 YEARS OF PAIN AND SUFFERING, EMOTIONAL TRAUMA FROM YEARS AND YEARS OF DAILY ANXIETY AND PANIC ATTACKS, POST SERVICE LOSS OF WAGES DUE TO INABILITY TO ENGAGE IN GAINFUL, SUBSTANTIAL EMPLOYMENT OPPORTUNITIES, FED. R. CIV. P. 8(c)? 8

V. WHERE THE SAME CLAIMS OF HISTORICAL ERROR IN MILITARY RECORDS WERE MADE IN BOTH THE U.S. DISTRICT COURT AND THE UNITED STATES COURT OF FEDERAL CLAIMS MAY THE CASES BE JOINED IN THIS COURT FOR JOINT RE-REVIEW UNDER S. CT. RULE 18.2 or ANY OTHER STATUTE OR RULE UNKNOWN TO PETITIONER? 9

CONCLUSION 10

TABLE OF AUTHORITIES

Page

CASES

Allen v. McCurry, 449 U.S. 90, 101 S.Ct. 411, 66 L.Ed.2d 308 (1980) 4

Celotex Corp. v. Catrett, 477 U.S. 317, 106 S.Ct. 2548, 91 L.Ed.2d 265 (1986) 4

Feres v. United States, 340 U.S. 135, 71 S.Ct. 153, 95 L.Ed. 152 (1950) 8, 9

Freidman v. United States, 159 CT. CL. 1-35, aff'd on appeal, 932 F.2d ___, *cert. den.*, ___ U.S. ___ (1962) 9

In re: Delbert H. Reidt, No. CV-92-80380 (Ninth Circuit) 8

Montana v. United States, 440 U.S. 147, 99 S.Ct. 970, 59 L.Ed. 210 (1979) 4

Reidt v. Department of Transportation, C-89-20526 WAI (D.C. ND CA) 5

CONSTITUTION

Fourth Amendment 2

Fifth Amendment 2

Seventh Amendment 2

STATUTES

5 U.S.C.A. 552a(d), (g) 2, 5, 7

5 U.S.C.A. 552a(g)(2)(A) 2

TABLE OF AUTHORITIES – Continued

Page

5 U.S.C.A. 552a(g)(4) 2

10 U.S.C.A. 1201 8

10 U.S.C.A. 1552 2

10 U.S.C.A. 1552(a)-(e) 5, 7

10 U.S.C.A. 1552(b) 2

28 U.S.C.A. 1291 or 1292(b) 6

28 U.S.C.A. 1346(b) 5, 6

28 U.S.C.A. 1491(a) 2

28 U.S.C.A. 1651(a) 1, 3, 6, 7

28 U.S.C.A. 2106 ..... 2, 7, 8

28 U.S.C.A. 2674 ..... 2, 5, 6

38 U.S.C.A. 1114 8

42 U.S.C.A. 423(d) 8

RULES

Fed. R. Civ. P. 8 ..... 1, 3, 5

Fed. R. Civ. P. 8(a) 3, 6

Fed. R. Civ. P. 8(a)(3) 2, 8

Fed. R. Civ. P. 16 5

Fed. R. Civ. P. 52, 61 1

Fed. R. Civ. P. 54(b) 2, 3, 5, 6, 7

Fed. R. Civ. P. 56(c) 4

Fed. R. Evid. 103 1

TABLE OF AUTHORITIES – Continued

Page

Supreme Court Rule 10(a) 1, 3, 6, 7

Supreme Court Rule 18.2 9

Supreme Court Rule 20.1 .....1, 3, 6, 7

CITATION TO ORDER BELOW

On December 14, 1989, in *Delbert H. Reidt v. San Francisco Office of the Department of Veteran Affairs,* No. C-89-2057-WI (Appendix 5) Judge Ingram made a ruling which Judge Ingram decided was an essential element on what constitutes an understanding of the case which is disputed and review is sought on mandamus in addition to review of all complaints for legal sufficiency.[1]

JURISDICTION

The Court has jurisdiction as an aid in appellate jurisdiction in order to review all cases mentioned in the list of parties at iii, iv, v, vi, in order to determine whether any of the complaints were, are legally sufficient to proceed to trial, thereby establishing clear error below, Fed. R. Civ. P. 52, 61, Fed. R. Evid. 103, S. Ct. Rule 10(a) for clear departure from ruling on complaint for sufficiency, Fed. R. Civ. P. 8, S. Ct. Rule 20.1, to join all cases mentioned at page iii, iv, v, vi, 28 U.S.C.A. 1651(a), to Order

[1] Appendix refers either to letters, petitions, and lower court Docket entries. Appendix 1 refers to letter from clerk showing probable denial of mandamus, Appendix II is my reply to Appendix I, Appendix III is petition for mandamus in the 9th Circuit, which includes references to the complaint (DKT 1), Motion for Default DKT 11 which was denied and Motion for ruling on sufficiency, (DKT 57) denied and letter to *Smith* and *Reed* demanding ruling on the complaint for sufficiency, letter to all district judges as to whether the complaint is sufficient to proceed, and letter from Clerk of this Court that there is no time limit to seek mandamus; Appendix 4 is proof of service of the mandamus in the Ninth Circuit.

the Correction Board to correct military records as set forth in the complaint (DKT 1) and to review all summary orders for finality under Fed. R. Civ. P. 54(b). 28 U.S.C.A. 2106 to correct records, 5 U.S.C.A. 552a(g)(2)(A), 10 U.S.C.A. 1552(b), to award civil damages under 5 U.S.C.A. 552a(g)(4) for their intentional and/or willful failure to correct, civil damages under 28 U.S.C.A. 2674, Fed. R. Civ. P. 8(a)(3) for 49 years of pain and suffering, etc. stated at pages 9, 10 Count XXXI in DKT 1.(the complaint in NO. CV-N-00-0297ECR (D.C. NV).

CONSTITUTIONAL PROVISIONS

The Fourth Amendment guarantees all citizens the right to be secure in all their papers and effects in custody of the United States which has been codified as 5 U.S.C.A. 552a(d), (g), 10 U.S.C.A. 1552, 28 U.S.C.A. 1491(a) denied thus far in all cases mentioned at pages iii, iv, v, vi.

The Fifth Amendment, " . . . provides that no person shall be denied due process on their claims without due process of law."

The Seventh Amendment guarantees " . . . in all controversies in excess of $20.00, the matters shall be held by jury trial."

HOW THE WRIT BE IN AID OF THE COURT'S APPELLATE JURISDICTION

Both the United States District Court and the United States Court of Federal claims refused every motion I have made for 16 years to fully and fairly adjudicate each and every claim of the parties as required by Fed. R. Civ. P. 54(b). The appellate courts, both the Ninth Circuit and Court of Appeals for the Federal Circuit refuse to unsettle summary judgments below them for full and fair adjudication. No court below would certify its judgment under Fed. R. Civ. P. 54(b).

As a consequence, this Court must intervene under its discretionary power in Supreme Court Rules 10(a), 20.1, 28 U.S.C.A. 1651(a) to issue mandamus as an aid in appellate jurisdiction and reopen all closed cases mentioned and review the complaints for legal sufficiency of the complaint required by Fed. R. Civ. P. 8, and to inquire as to why below refuses to adjudicate all party's rights, claims, and liabilities required by Fed. R. Civ. P. 54(b), if review in this Court shows all complaints to be legally sufficient under Fed. R. Civ. P. 8, then this Court must conclude there has been clear error.

Moreover, this Court will not review cases that have not been certified as final under Fed. R. Civ. P. 54(b). Hence, mandamus will aid this Court whether all claims, rights and liabilities of the parties have, in fact, been adjudicated, Fed. R. Civ. P. 54(b).

In the alternative, the Court may rule there has been a clear departure from making an initial ruling on the complaint for sufficiency under Fed. R. Civ. P. Rule 8(a),

this Court may issue a ruling under its own authority under mandamus.

EXCEPTIONAL CIRCUMSTANCES THAT WARRANT THE COURT'S DISCRETIONARY POWERS TO INTERVENE

The holding of this Court are manyfold; first there is the issue of res judicata, this Court holds that res judicata has no application to a claim the previous court failed or refused to adjudicate, *Montana v. United States*, 440 U.S. 147, 153-154, 99 S.Ct. 970, 973-974, 59 L.Ed. 210, 212-213, 216-217, 219 (1979); affirmed in *Allen v. McCurry*, 449 U.S. 90, 94, 101 S.Ct. 411, 414-415, 66 L.Ed.2d 308, 310, 313-314 (1980).

Yet the lower courts dockets will reveal to this Court on mandamus that each time I cited this Court's Ruling mentioned above as to res judicata the lower court simply ignored my pleadings with something like you had the chance in the previous case. Mandamus will aid me.

Moreover, this Court holds that summary judgments are only appropriate after the pleadings, answers to interrogatories, discovery and admissions, depositions, affidavits, if any, show there is no genuine issue as to the material facts and the moving party is entitled to a judgment as a matter of law. Fed. R. Civ. P. 56(c), *Celotex Corp. v. Catrett*, 477 U.S. 317, 106 S.Ct. 2548, 2556, 91 L.Ed.2d 265, 268-269, 273 (1986) while at 322 this Court holds that affidavits, if any, are not any requirement under Rule 56(c).

I have been denied discovery and admissions of evidence, and I have been denied my right to voir dire examination of any official who has knowledge of my complaints mentioned at page iii, iv, v, vi, table of contents.

And yet, in non-appealable opinions below, all presiding judges rule that the judgment on the merits by Judge Ingram in CV-89-20526 WAI (D.C. ND CA) is final. Yet Judge Ingram made no ruling on the complaint for legal sufficiency. Judge Ingram made one ruling which is exposed as clear error in Count XXX in DKT 1 of CV-N-00-0297ECR (D.C. NV) and Respondent Reed refused to correct.

I have submitted to Judge Reed at DKT 11 in No. CV-N-00-0297ECR (D.C. NV) motion for default due to defendant-respondents' failure or refusal to timely respond to the complaint. All evidence attached to DKT 11 clearly shows there are records to correct.

WHY ADEQUATE RELIEF CANNOT BE HAD IN ANY OTHER FORM OR ANY OTHER COURT

I

IS THE FIRST ORDER OF BUSINESS IN THE FILING OF ANY COMPLAINT FOR THE PRESIDING JUDGE TO MAKE A LEGAL RULING AS TO WHETHER THE COMPLAINT IS SUFFICIENT TO PROCEED TO TRIAL, FED. R. CIV. P. 8, 16, 54(b), 28 U.S.C.A. 1346(b), 28 U.S.C.A. 2674, 5 U.S.C.A. 552a(d), (g), 10 U.S.C.A. 1552(a)-(e)?

Petitioner alleges failure or refusal for sixteen years by the district courts their appellate division, the Claims

Court and its appellate division to make a proper ruling on the complaint for legal sufficiency has deprived petitioner any opportunity to fully and fairly adjudicate his claims. Ergo, adequate relief cannot be had with respect to a legal ruling under Fed. R. Civ. P. Rule 8(a).

II

WHERE THE DISTRICT COURT, NINTH CIRCUIT FAILED OR REFUSED TO CERTIFY ANY OF THEIR RULINGS FOR APPELLATE REVIEW UNDER FED. R. CIV. P. 54(b), 28 U.S.C.A. 1291 OR 1292(b) MAY MANDAMUS ISSUE IN ORDER TO REVIEW ALL COMPLAINTS FOR LEGAL SUFFICIENCY, 28 U.S.C.A 1651(a), S. CT. RULES 10(a), 20.1?

Fed. R. Civ. P. 8(a) requires all presiding judges to make a legal ruling whether the complaint is legally sufficient to proceed to trial.

In the alternative, the facts will show all presiding judges allowed premature motions to dismiss in each and every case. Had Judge Aguilar made a proper ruling on the complaint in No. C-84-20566RPA, he would have ruled that my claim that the diagnosis of Dr. Lash was negligently withheld from me in 1952, 28 U.S.C.A. 1346(b), 28 U.S.C.A. 2674, Fed. R. Civ. P. 8(a). In such case, defendant-respondents would have been forced to settle this case in 1984 or 1985.

III

WHERE THE DEPARTMENT OF TRANSPORTATION BOARD FOR CORRECTION OF MILITARY RECORDS; THE FOIA/PA OFFICER; SECRETARY OF TRANSPORTATION; THE DISTRICT COURTS AT SAN JOSE, CA., SEATTLE, WA. OR RENO, NV., THE NINTH CIRCUIT; UNITED STATES COURT OF FEDERAL CLAIMS; THE UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT ALL FAILED OR REFUSE TO CORRECT THE HISTORICAL ERROR IN NOT INFORMING PETITIONER IN 1952 OF HIS PHOBIC DISORDERS FROM PHS MICROFILM REEL 72-884 SHOWN BY DR. LASH AND DR. KLEMPERER (deceased) AND/OR THEIR FAILURE OR REFUSAL TO CORRECT THE FINAL MEDICAL CERTIFICATE, DD 214 FORM, DISCHARGE PAPERS TO INCLUDE THE HEAD TRAUMA FOR WHICH I WAS NOT TREATED IN 1952, THE DIAGNOSES OF DR. LASH AND DR. KLEMPERER UNDER 5 U.S.C.A. 552a(d), (g), 10 U.S.C.A. 1552(a)-(e) MAY MANDAMUS ISSUE FROM THIS COURT TO ORDER THE SECRETARY OF TRANSPORTATION, THE CORRECTION BOARD, THE FOIA/PA TO CORRECT ALL MILITARY RECORDS SET FORTH IN THE COMPLAINT, DKT. 1: AND MOTION FOR DEFAULT, (DKT 11), or MOTION TO MAKE RULING ON COMPLAINT FOR SUFFICIENCY OR TO MAKE A RULING ON THE COMPLAINT FOR LEGAL SUFFICIENCY (DKT 57), 28 U.S.C.A. 1651(a), S. Ct. RULES 10(a), 20.1, 28 U.S.C.A. 2106, OR REMAND TO DISTRICT COURT FOR JUDICATION?

Since below refuses to correct all of records as set forth in DKT 1, 11, 57 I believe it is time for this Court to put a stop to below failure or refusal to adjudicate all claims, etc. FRCP 54(b) and simply order, 28 U.S.C.A.

2106, the Correction Board, Secretary of Transportation to correct as set forth in DKT 1, 11.

IV

WHERE DEFENDANT-RESPONDENTS TIMELY FAILED OR REFUSED DISABILITY STATUS AND PAY UNDER 10 U.S.C.A. 1201 FROM 1952 TO PRESENT MAY PETITIONER ASK THE COURT TO WAIVE FERES IMMUNITY, *FERES V. UNITED STATES*, 340 U.S. 135, 71 S.Ct. 153, 95 L.Ed. 152 (1950) AND ALLOW PETITIONER TO RECOVER FOR 49 YEARS OF PAIN AND SUFFERING, EMOTIONAL TRAUMA FROM YEARS AND YEARS OF DAILY ANXIETY AND PANIC ATTACKS, POST SERVICE LOSS OF WAGES DUE TO INABILITY TO ENGAGE IN GAINFUL, SUBSTANTIAL EMPLOYMENT OPPORTUNITIES, FED. R. CIV. P. 8(a)(3)?

The courts and defendant-respondents below have simply refused to pay disability pay from 1952 or any benefits to my children as children of a disabled veteran, 38 U.S.C.A. 1114, 42 U.S.C.A. 423(d). Moreover, it seems the case that Respondent Ingram in No. C-89-20526WAI (D.C. ND CA) is intentionally or willfully withholding from me an alleged order to pay me disability pay from whom I have no idea. Apparently the Ninth Circuit is holding this Order in Chambers in *In re: Delbert H. Reidt*, Respondent, No. CV-92-80380 (Ninth Circuit). Since they refuse to submit that Order to me, it is my allegation no such order exists. I believe I am entitled to compensation as set forth in DKT 1 pages 9 and 10, I DEMAND SUCH order issue from this Court, 28 U.S.C.A. 2106 and bring this 49 year old case to a conclusion. If the Court rules, for such reason as the Court may deem, then I DEMAND

the Correction Board fund my Social Security Account 537-28-4166 from Social Security Taxes DEEMED Proper as a punitive measure under Rule 11 for delay[2]. In addition Petitioner has submitted a complaint of judicial misconduct against the district judges at page iii, iv, v, vi, table of contents for failure or refusal to make a proper ruling on the complaint for sufficiency. There has been no reply to my complaint as of yet.

V

WHERE THE SAME CLAIMS OF HISTORICAL ERROR IN MILITARY RECORDS WERE MADE IN BOTH THE U.S. DISTRICT COURT AND THE UNITED STATES COURT OF FEDERAL CLAIMS MAY THE CASES BE JOINED IN THIS COURT FOR JOINT RE-REVIEW UNDER S. CT. RULE 18.2 OR ANY OTHER STATUTE OR RULE UNKNOWN TO PETITIONER?

In order to assist this Court in determining whether the *Feres Doctrine* has any relevance to this matter, Petitioner humbly requests the Court to join CL. CT. No. 490-85C (HARKINS) to these proceedings for error.

It seems to be the case the Claims Court is refusing to set aside its ruling that my claim for disability pay accrued in 1952 where the Rules prescribes that where a claimant has been misled by the Board of Medical Survey such claim does not accrue until the final denial by the Correction Board *Friedman v. United States*, 159 CT. CL.

---

[2] If the Court finds that Mr. Reidt can only recover for lost disability pay and punitive damages for loss of wages, may the Social Security taxes be withheld from punitive damages.

1-35 (1962), aff'd on appeal, 310 F.2d 381. My claim for disability pay accrued on May 19, 1985 final denial[3].

---

[3] This matter should have been settled amicably and in Good Faith by the Correction Board over twenty years ago. Also, there is "error" in this petition which Mr. Reidt believes will be corrected by this Foot Note, and will save Mr. Reidt several hundred dollars in re-setting the type by Cockle Law Brief Printing Co. First off, all cases are not cited at Table of Contents page x, but are cited at Table of Contents pages iii, iv, and v. There are no cases cited at page vi. Mr. Reidt's citation of Reidt v. San Francisco Office Of The Department of Veterans' Affairs, No. CV-89-20527WAI (D.C. ND CA) cited at page 1 in this Petition is referred to at Table of Contents pages iv, v as Reidt v. United States, et als. C-89-20527WAI (D.C. ND CA) because all cases cited relate to *Reidt v. United States, et als.*, C-84-20566RPA (D.C. ND CA). In any event, Judge Ingram in Reidt v. San Francisco Office of Department of Veterans' Affairs made the erroneous ruling cited which I dispute I ever made, which Judge Ingram believes to be "an essential element to an understanding of the case. Montana v. United States, 440 U.S. 147, 153-154, 99 S. Ct. 970, 973-974, 59 L. Ed. 210, 212-213, 216-217, 219 (1978)" The foregoing erroneous ruling by Judge Ingram which substantially affects my right to prove the Historical Errors cited in App. 21-36. Such error cannot be reviewed on Certiorari under the Court's Rule 10, except as to failure or refusal to make a proper pre-trial order required by Fed. R. Civ. P. 16. Hence, mandamus will compel below to recognize the True Historical Errors in App. 21-36. Substantial error which affects a parties right to prove the Historical Errors in App. 21-36 is provided for under Fed. R. Civ. P. 52, 61, Fed. R. Evid. 103, 28 U.S.C.A. 2111 on mandamus proceedings. Now, this Court can rule App. 21-36 must be adjudicated or settled, or simply order Correction set forth at App. 33, 34. Moreover, it is Public Knowledge that the standard for pro se in this court is to hold pro se to less stringent standards in the drafted pleadings than in pleading drafted by attorneys. So, if the Clerk of this Court has any problem with this Petition, I DEMAND the Clerk

CONCLUSION

Petitioner DEMANDS THE COURT ADVANCE THIS 49 YEAR OLD CASE ABOVE ALL OTHER CIVIL CASES, ORDER THE CORRECTION BOARD TO CORRECT THE HISTORICAL ERROR AT DKT 1, AND ORDER PAYMENT OF $30,000,000 in damages and end this case.

Respectfully DEMANDED,

Delbert H. Reidt petitioner pro se
530 E. Patriot Blvd., Apt. K-230
Reno, NV 89511
Tel (775) 852-4643

---

submit this Petition to the Justice for the Ninth Circuit whom I believe to be Justice Stevens. Isn't the content more important than form? Mr. Reidt did not previously understand that page numbers differ from below and page numbers in this Petition. For example, in this Petition at page 4 should read: "meant as a matter of law, Fed. R. Civ. P. 56(c), while at 322 the Court holds that "affidavits, if any, are not any requirement under Fed. R. Civ. P. 56(c), Celotex Corp. v. Catrett, 477 U.S. 317, 322, 106 S. Ct. 2548, 2556, 91 L.Ed.2d 265, 268-269, 273 (1986)." In addition, there is "error" in numbering the pages to this Petition that differ from the page numbers below. For example, in this Petition at page 8, 4th line from the bottom Mr. Reidt said, "as set forth in DKT. 1 pages 9 and 10." DKT 1 pages 9 and 10 refer to page 33 in the appendix of this Petition. Appendix 21-36 is the complaint in Reidt v. United States, NO. CV-N-00-0297ECR (D.C. NV) for review in this Court for sufficiency required by Fed. R. Civ. P. 8, 16, 54(b). Confusing to Mr. Reidt. App. 7-15 is the actual mandamus sought in the Ninth Circuit. At App. 14 Mr. Reidt said, "because this Petition is less than 5 pages in length there is no Table of Contents." See: Supreme Court Rule 14.1(c). As a result the page numbers below differ from the page numbers in the Appendix to this Petition. Moreover, the Statement of the Case is cited at App. 9-10 and is not repeated herein in order to simply avoid redundancy.

APPENDIX 1

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT
P.O. Box 193939
95 Seventh Street
San Francisco, CA. 94119-3939

April 26, 2001

Delbert Reidt
Apartment 230
530 E. Patriot Blvd. Bldg. K
Reno, Nevada 89511-1290

Re: 92-80380 In Re: DELBERT H. REIDT

Dear Mr. Reidt:

This will respond to your recent correspondence with this court. According to our records you are the subject of the above referenced pre-filing review case and any appeals or writs are not to proceed without further order of this court. Your writ of mandamus petition, received on April 20, 2001, is under consideration by this court and you will be notified if your writ is allowed to proceed. We are returning your check in the amount $105.00 for filing fees. If your mandamus petition is allowed to proceed you will be notified regarding the payment of the filing fees.

Sincerely,

CATHY A. CATTERSON
Clerk of the Court

/s/ Christine Hill
Christine Hill
Deputy Clerk

APPENDIX 2

APRIL 28, 2001

From: Delbert H. Reidt Pro Se
530 East Patriot Boulevard
Apt. K-230
Reno, NV. 89511
Tel. (775) 852-4643

To: Christine Hill, Deputy Clerk
Office of the Clerk
U.S. Court of Appeals, Ninth Circuit
95 Seventh St. P. O. Box 193939
San Francisco, CA. 94119-3939

Re: Petition for Writ of Mandamus As An Aid In Appellate Jurisdiction To Review the Complaint in No. CV-N-00-0297ECR FOR LEGAL Sufficeincy [sic], Fed. R. Civ. P. 8(a), 28 U.S.C.A. 1346(b), 28 USCA 2764, 5 U.S.C.A/ 552a(g)

To Deputy Clerk Christine Hill,

I am not the least bit interested in the attached hereon letter concerning pre-filing review Order NO. 92-80380.

92-80380 does not resolve the issues at dispute in the complaint before this Court and is immaterial, irrelevant to the issues in the Mandamus sought.

It is clear the Court is not going to address the petition for mandamus, so on May 10, 2001 I will forward to the United States Supreme Court my petition for writ of mandamus as an aid in appellate jurisdiction to review the complaint in No. CV-N-00-0297ECR for legal sufficeincy [sic], Fed. R. Civ. P. 8(a).

The only issue before the Court of Appeals is whether the complaints of mine in No's C-84-20566RPA (D.C. ND CA); C-89-20510WAI (D.C. ND CA), C-89-20526WAI (D.C. ND CA), C-89-20727WAI (D.C. ND CA), C-93020180RMW (D.C. ND CA); C-96-344WLE (D.C. WWS), C-97-276TZ (D.C. WWS), C-98-1725 JCC (D.C. WWS) and CV-N-00-0297ECR (D.C. NV) are legally sufficeint [sic] to proceed to trial.

If the Ninth Circuit refuses to move on my claim the above cases were legally sufficeint [sic], then I will ask the United States Supreme Court to intervene.

cc: United States Supreme Court

/s/ Delbert H. Reidt
Delbert H. Reidt pro se

APPENDIX 3

LODGED

APR 20 2001

CATHY A. CATTERSON
CLERK, U.S. COURT OF APPEALS

RECEIVED
CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

APR 25 2001

RECEIVED

APR 20 2001

PRO SE

FILED _____ ___
DOCKETED _____ ___
DATE INITIAL

DOCKET NUMBER 01-92-80380

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

IN RE: DELBERT H. REIDT, PETITIONER

PETITION FOR WRIT OF MANDAMUS

SUBMITTED BY: DELBERT H. REIDT PRO SE
530 EAST PATRIOT BOULEVARD
APT. K-230
RENO, NV. 89511
Tel. (775) 852-4643

QUESTIONS PRESENTED

I

Is the first order of business of the district court to issue an order on the legal sufficeincy [sic] of the complaint to proceed to trial, Fed. R. Civ. P. 8(a), 28 U.S.C.A. 1346(b), 28 U.S.C.A. 2674, 5 USCA 552a(g) (4)?

II

Where Judge Reed refused to certify No. C-00-N-00-0297ECR for appellate review under either 28 U.S.C.A. 1291 or 1292(b) may petitioner obtain issue of Writ of Mandamus as an aid in appellate jurisdiction in order to review the complaint in No.Cv-N-00-0297ECR for legal sufficeincy [sic], Fed. R. Civ. P. 8(a), 28 U.S.C.A. 1346(b), 28 U.S.C.A. 2674, 5 U.S.C.A. 552a(g)? FRAP 21, 9th Cir. Rule 21-2, 28 U.S.C.A. 1651(a).

III

Does the district courts of the United States have exclusive jurisdiction over personal injury claims against the United States for head trauma, 28 U.S.C.A. 1346(b), 28 U.S.C.A. 2674?

IV

Will the Ninth Circuit certify the dispute over the *Feres Doctrine* for resolution in the United States Supreme Court, 28 U.S.C.A. 1254(2)?

V

Where the facts show that the complaint in No. Cv-N-00-0297ECR are the sames [sic] claims made in NO's C-84-20566RPA(D.C. ND CA); C-89-20510WAI(D.C. ND CA); C-89-20526WAI(D.C. ND CA); C-89-20526WAI(D.C. ND CA); C-93-20180RMW(D.C. ND CA); C-96-344WD(D.C. WWS); C-97-276Z(D.C. WWS); C-98-1725JCC(D.C. WWS), may petitioner obtain a Writ of Mandamus as an aid in appellate jurisdiction in order

to review the complaints in the preceding cases for "legal sufficeincy" [sic], Fed. Civ. P. 8(a), 28 U.S.C.A. 1346(b), 28 U.S.C.A. 2674, 5 U.S.C.A. 552a(g), Fed. R. App. P. 21, Ninth Circuit Rule 21-2, 28 U.S.C.A. 1651(a)?

LIST OF PARTIES TO THIS ACTION

Delbert H. Reidt pro se – Petitioner
530 E. Patriot Boulevard
Apt. K-230
Reno, NV. 89511
Tel. (775) 852-4643

District Judge Edward C. Reed, Jr. – Respondent
U.S. District Court for Nevada
U.S. Court House
400 South Virginia St.
Reno, NV. 89501
Tel (775) 686-5919

Shirley Smith, Attorney for defendants-Respondents
U.S. Attorney's Office Suite 600
100 West Liberty
Reno, NV. 89501
Tel. (775) 784-5438

Current Chairman, Board for Correction of Military Records – Respondent
(C-60), Office of the Secretary, Office of General Counsel
Department of Transportation 400 Seventh St. S.W.
Washington, D.C. 20590

Norman Mineta, Secretary of Transportation – Respondent
Office of the Secretary, Office of the General Counsel
400 Seventh St. S.W., Washington, D.C. 20590

Lt. David Fajerski or Current FOIA/PA Co-ordinator – Respondent
U.S. Coast Guard, Staff Symbol G-KRM-3
2100 @nd [sic] St. S.W., Washington, D.C. 20593

District Judge Robert P. Aguilar – Respondent
U.S. District Court for Northern California, U.S. Court House
280 South First St., San Jose, CA. 95113

District Judge William A. Ingram – Respondent
U.S. District Court for Northern California, U.S. Court House
280 South First St., San Jose, CA. 95113

District Judge Ronald M. Whyte – Respondent
U.S. District Court for Northern California, U.S. Court House
280 South First St., San Jose, CA. 95113

District Judge William L. Dwyer (retired) – Respondent
U.S. District Court, Western Washington, U.S. Court House
1010 Fifth Avenue, Seattle, WA. 98104

District Judge Thomas Zilly – Respondent
U.S. District Court, Western Washington, U.S. Court House
1010 Fifth Avenue, Seattle, WA. 98104

District Judge John C. Coughenour – Respondent
U.S. District Court, Western Washington, U.S. Court House
1010 Fifth Avenue, Seattle, WA. 98104

I

CITATION TO ORDER

On April 17, 2001 Lea Griffin at the District Court informed me there would be no hearing on my Motion to

Reopen this closed docket No. CV-N-00-0297ECR and determine whether or not the complaint was legally sufficeint [sic] under Fed. R. Civ. P. 8(a) to proceed to trial. See Pet. App. 1[1] – Motion to Reopen This Closed Docket etc. So, petitioner has submitted this Mandamus as an aid in appellate jurisdiction to review the complaint for legal sufficeincy [sic], FRCP 8(a).

JURISDICTION

The Court has jurisdiction under Fed. R. App. P. 21, Ninth Circuit Rule 21-1, 28 U.S.C.A. 1651(a) as an aid in appellate jurisdiction the review the complaint, See Pet. App. 2, and to re-instate the complaint under 28 U.S.C.A. 2106 for compliance with the mandamus in this case to adjudicate those issues in the complaint.

Petitioner also has a complaint of judicial misconduct pending for which he has not yet received any docket number, citing Judge Reed for misconduct for refusing to issue a ruling the complaint for legal sufficeincy [sic], Fed. R. Civ. P. 8(a).

---

[1] Pet. App . . . refers to the appendix attached hereon: Pet. App. 1 is Motion to Reopen and Issue Ruling on sufficeing [sic] of Pet. App. 2; Pet. App. 2 is the complaint on which a ruling is sought in this Court as to the suffeceincy [sic] of the complaint; Pet. App. 3 is letter to Judge Reed and Attorney Smith in that the complaint in Pet. App. 2 was dismissed wihtout [sic] ruling on suffinceincy [sic] of complaint; Pet. App. 4 is letter to Ninth Circuit No. 92-80380 as to whether or not the previous complaints were legally sufficeint [sic].

CONSTITUTIONAL PROVISIONS

The Fifth Amendment states: "Nor shall any person be deprived . . . due process on his claims before the Court. . . . " (Apparently the past 16 years has shown that Delbert H. Reidt is not entitled to any due process on his claims before the Court. Which would explain why no court will adjudicate his claims required by Fed. R. Civ. P. 54(b)."

The Fourth Amendment provides that: "All persons shall enjoy the right to be secure in his papers, effects on file with the United States Government under 5 U.S.C.A. 552a(g) (1) (D) thus far denied.

II

STATEMENT OF THE CASE

Petitioner was diagnosed as having some sort of phobic disorder by Dr. R. F. Lash, M.D., staff physician at U.S. Public Health Service Hospital in May, 1952 while petitioner was undergoing psychiatric treatment and evaluation while a member of the United States Coast Guard. The foregoing is the claim on which relief can be granted for pain and sufferring [sic], emotional trauma, loss of wages post service, etc. See Pet. App. 2. The foregoing claim was negligently withheld from petitioner in 1952, and petitioner did not discover the diagnosis of Dr. Lash until 1981 when he obtained a copy of PHS Microfilm Reel 72-884 whereupon petitioner immediately sought correction of this historical error in No's C-85-20566RPA(D.C. ND CA); C-89-205-10WAI(D.C. ND CA); C-89-20510WAI(DC ND CA); C-89-20526WAI(D.C. ND CA); C-89-20727WAI(D.C. ND CA);

C-93-20180RMW(D.C. ND CA); C-96-344WLD(DC WWS); C-97-276Z(D.C. WWS); C98-1725JCC(D.C. WWS); and now C-N-00-0297ECR(D.C. NV).

All of the above courts refused to adjudicate the above claim on the ground that the claim was not a claim for which relief can be granted, Fed. R. Civ. P. 8(a). I contend that the above claim is a claim for which relief can be granted.

In addition, petitioner claimed he was not given any adequate level of medical treatment required by 10 U.S.C.A. 1201, 38 U.S.C.A. 1111; that petitioner had a serious head trauma while active military service and that claim was refused below. In fact, all the claims in the complaint have yet to be fully and fairly adjudicated as required by Fed. R. Civ. P. 8(a), 16, 54(b), *Montana v. United States*, 440 U.S. 147, 153-154(1975); affirmed *Allen v. McCurry*, 449 U.S. 90, 94(1980).

I have been denied a Proper Pre-trial Order where the parties claims, rights and liabilities are adjudicated, Fed. R. Civ. P. 8(a), 16, 54(b).

I contend the above claims are recognixable [sic] under Fed. R. Civ. P. 8(a) and DEMAND the Court affirm my claims as recognizable, Rule 8(a).

III

RELIEF SOUGHT

Issue a show cause order to all respondents as to why the writ sought should not issue on the grounds stated herein;

Issue mandamus as an aid in appellate jurisdiction in order to review the several complaints for legal sufficeincy [sic], Fed. R. Civ. P. 8(a) and to re-instate No. CV-N-00-0297ECR in the district court at Reno, NV, along with an Order to the Chief Judge Howard McKibben to re-assign No. CV-N-00-0297 to another Judge due to Judge Reed's total bias and prejudice.

Because this very Court in Dec. 2000 refused to hear appeal of CV-N-00-0297ECR on the ground the Court lacked jurisdiction, due to minute orders not being appealable, and all Judge Reed issued were minute orders, Mandamus is the only remedy available to review the complaints as an aid in appellate jurisdiction for legal suffieceincy [sic].

Hold a hearing on the issues in this case for oral argument; to or der [sic] punitive damages and actual damages for 16 year delay in obtaining mandamus or other procedure to compel the Courts to issue a legal ruling on the complaint, only, for legal sufficeincy [sic], Rule 8(a).

Once the Court issue a ruling on the complaint for sufficeincy [sic] the defendnat [sic]-respondents will be forced to settle this case after a 48 year delay. And, order all costs since 1984 awarded to petitioner.

IV

REASONS WHY THE WRIT SHALL ISSUE

All respondent Judge listed at page i for 16 years have failed or refused to issue a Proper Judgment on the

compliant for legal sufficenicy [sic] only, extraneous matters notwithstanding. I'm sick and tired of summary judgments as nothing has been resolved to the satisfaction of Petitioner. In No. C-89-20527WAI(D.C. ND CA) promised me a generous settlement if I allowed him to enter final judgment. When I asked: "How Mmuch [sic]?", he refused to set an amount. No thank you. The purpose of a settlement is to agree on the terms of the settlement. No settlement has been offered by defendant-respondents, or Judge Ingram.

In addition, Judge Reed refused to certify No. CV-N-00-0297 under Fed. R. Civ. P. for appellate review.

The United States Supreme Court holds the 2nd and 8th Circuit as binding law.

> "on a motion to dismiss, the Court is limited to review the complaint for legal sufficeincy [sic] only, extraneous matter is not permitted on such motion by defendants. *Samara v. United States*, C.C.A. 2, (1942) 129 F.2d 594, cert den 63 S.Ct. 258, 317 U.S. 686, 87 LEd. 549; *Boro Hall Corp. v. General Motors*, C.C.A. 2(1942), 124 F.2d 822, cert den 63 S.Ct. 436, 317 U.S. 695, 87 L.ED. 556, 87 L.Ed. 556; *Kithcart v. Metropolitan Ins. Co.*, C.C.A. 8(1945) 150 F.2d 997.

Many Court use the summary judgment process on motion to dismiss in attempt to end the adjudication process without discovery or admissions. Such was the case in *Reidt v. San Francisco Ca. Regional Office of Dep't of Veterans' Affairs*, C-89-20527WAI. In that case Judge Ingram issued the order that:

> " . . . However plaintiff's claim that the diagnosis of plaintiff by the Board of Medical Survey

> is incomplete because it fails to take into account a diagnosis of plaintiff by a Dr. Lash is sufficeint [sic] to state a claim. . . . The parties are ordered to file cross motions for summary judgment within 30 days. . . . "

Well, since there had been no discovery or admissions of evidence, and because Judge Ingram refused to inform me of the amount he would order petitioner refused to move for summary judgment as is his right.

First off, the Order above clearly shows that the diagnosis of Dr. Lash was negligently withheld from me in 1952 and defendant-respondents refused to correct that historial [sic] error on administrative claim, and the above order by Judge Ingram conflicts with my Count IV in Pet. App. 2 I alleged:

> "On March 16, 2000 letter to the Correction Board, I sent them the following: 1. Clinical Record: Dr. Progress Noteds [sic] showing the diagnosis of plaintiff by a Dr. Lash; 2. Clinical Record Brief Admission Form; 3. Clinical Record: Narrative, 4. Final Medical Certificate, cont'd on page 3 from page 2, all taken from PHS Midcrofilm [sic] Reel 72-884. Plaintiff demanded the Correction Board, in the best interests of justice, in order to remove an injustice, 10 U.S.C.A. 1552(b), 5 U.S.C.A. 552a(d) (2), (g) (1), (2), (3) and (4) to include the diagnosis found in item 1 negligently omitted by unknown officials at Public Health Service cited herein in 1952 therefrom. The Correction Board refused to timely act on my letter or March 16, 2000. Their timely refusal to act inflicted further adverse effect to plaintiff's mental health and physical wellbeing. Fed. R. Civ. P. 8(a), 15(a),

(d), 16(e), 54(b), 28 U.S.C.A. 1346(b), 28 U.S.C.A. 2674, 5 U.S.C.A. 552a(d) (1)-(d) (3), (g) (1)-(g) (4).

Defendants' refused to correct the Final Medical Certificate to include the diagnosis of both the medical Survey and Dr. Lash.

Because this petition is less than 5 pages in length no table of contents is included; See: Supreme Court Rule 14.1(c).

Please review the entire complaint at Pet. App. 2 for legal sufficenicy [sic], Fed. R. Civ. P. 8(a), in paticular [sic] page 9 Count XXX:

> "Judge Ingram was negligent for not providing plaintiff an opportunity to restate his claim as: Plaintiff alleges there is a historical error in the Clinical Record: Manifold Admissions form and the Final Medical Certificate in that these documents take into account the diagnosis of plaintiff by the Board of Medical Survey, but they are incomplete because they do not include the diagnosis of plaintiff by Dr. Lash shown on Linical [sic] Record: Doctor's Progress Reports which Public Health Service officials negligently omitted therefrom, and defendant Correction Board negligently, intentionally and willfully refused to correct under either 10 U.S.C.A. 1552(b), or 5 U.S.C.A. 552a(d) (1)-(d) (3) in order to remove an inustice [sic] and correct a historical error thereby inflicting adverse effect to the mental health and physical well-being of plaintiff. Fed. R. Civ. P.8(a), 15(a), (d), 16(e), 54(b), 28 U.S.C.A. 1346(b), 28 U.S.C.A. 2674, 5 U.S.C.A. 552a(g) (1)-(g) (4)."

It is clear that 1346(b) clearly establishes jurisdiction in the district court on all personal injury claims against the United States which below refuses to recognize as jurisdiction on personal injury claims.

Please take Notice that at the end of every Count I cited sufficeincy [sic] under Fed. R. Civ. P. 8(a). When Lea Griffin from Judge Reed's calendar clerk advised me my motion would be denied, I asked her if Judge Reed ever read any of the materials I furnished him. No reply.

V

CONCLUSION

For 16 years below this Court has absolutely failed or refused to issue any ruling on any of my several complaints for legal sufficeincy [sic]. The only issue before this Court is whether or not the complaint at Pet. App. 2 is legally sufficeint [sic] within the provisions of Fed. R. Civ. P. 8(a). No other issues are before this Court. I DEMAND the Court rule on Pet. App. 2 for sufficeincy [sic] of the complaint on required by Fed. R. Civ. P. 8(a). Failure or refusal to rule on the complaint will result in mandamus to the United States Supreme Court as an aid in appellate jurisdiction to review Pet. App. 2 for legal sufficeincy [sic] required by Fed. R. Civ. P. 8(a).

Dated: April 18, 2001

Respectfully DEMANDED,

/s/ Delbert H. Reidt
Delbert H. Reidt pro se

DELBERT H. REIDT PRO SE
530 EAST PATRIOT
BOULEVARD
APT. K-230
RENO, NV. 89511
Tel. (775) 852-4643

1 copy to
Judge Reed

UNITED STATES DISTRICT COURT
DISTRICT FOR NEVADA

DELBERT H. REIDT, Plaintiff, vs. UNITED STATES OF AMERICA, et. als. [sic], Defendants.	No. CV#-N-00-0297ECR MOTION TO REOPEN THIS CLOSED DOCKET FOR COMPLIANCE WITH FED. R. CIV. P. 16, FED. R. CIV. P. 60(b) (6) (Filed Mar. 27, 2001)

The Court closed the docket on this case on January 8, 2001 without first holding a conference under Fed. R. Civ. P. 16(c) (1):

> (c) (1): the formulation and simplification of the issues, including the elimination of frivilous [sic] claims or defenses.

The foregoing procedure has been abandoned in each and every case previously filed in any court.

The attached hereon letter to me from the Clerk, U.S. Supreme Court informs me that there is no time limit in which to file in that Court for Writ of Mandamus in order to comply with Fed. R. Civ. P. 16 proceedings denied me for 16 years.

Defendants claim of *res judicata* is a trial court issue, and is an affirmative defense required to be placed on the Pre-Trial Order yet to be issued in this Court, or any other Court. I DEMAND the affirmative defense of res judicata be placed on the Pre-Trial Order and this Court prematurely GRANTED *res judicata* on defendants' premature motion to dismiss of August 18, 2000 which this Court GRANTED ON Ocotebr [sic] 23, 2000.

In affirming *res judicata* defendants' are required to present to the Court any Pre-Trial Order Judgment on the Merits from any other Court in the United States. The Pre-Trial order is the Order which allows adjudication of those claims appearing in the Pre-Trial Order.

Plaintiff confidently alleges no such Pre-Trial order was ever issued as in the words of this Court, "These are the same claims presented before in plaintiff's previous complaints." Well, where is the Pre-Trial Order where "same claims were presented. . . . ?"

> Defendants also allege "a search of records resulted in finding no records pertaining to plaintiff."

The foregoing is another affirmative defense which is also required to be placed on the Pre-Trial order. Defendants have the burden at trial to prove no such records exist, 5 U.S.C.A. 552a(g) (3) (A),(B). Hard to do in light of records in default denied by the Court.

Another affirmative defense which is required by the missing pre-trial order in this case is the affirmative defense of *Feres* immunity. Defendants are required to prove that they actually offered plaintiff disability status and pay, 10 U.S.C.A. 1201. If defendants cannot prove

they offered me disability pay and status, then there will be no exemptions or exclusions and plaintiff is entitled to recover in full as in other cases where the Military Forces of the United States are not a party.

In fact, because the Claims Court refused to pay disability pay in 13 Cl. Ct. 741-745(1987) defendants enjoy no immunity under *Feres*.

SANCTIONS UNDER FED. R. CIV. P. 11

Defendants failure or refusal to actively participate in proceedings under Fed. R. Civ. P. 16 has resulted in a 16 year delay in obtaining the Proper Pre-Trial order in this, or any other Court, and plaintiff DEMANDS the United States pay plaintiff $30,000,000 in punitive damages for "unnecessary delay" in attending the Pre-Trial Conference required by Fed. R. Civ. P. 16, in particluar [sic] (c) (1) in order to discuss the anticipated defenses at trial.

Plaintiff has suffered "severe emotional injuries" due to the defendants failure or refusal to attend conference under (c) (1), or to return plaintiff's several telephone calls to Shirley Smith, the attorney of record. Her failure or refusal to answer inquires [sic] by either letter or mail contributed to failure to obtain the required proceedings under (c) (1) to discuss Her issues prematurely GRANTED by this Court on Oct. 23, 2000.

Moreover, any motion to dismiss for failure to state a claim under (b) (6) of Rule 12 limits the Court to making an order whether or not the complaint is legally sufficeint [sic]. If the Court rules the complaint is "legally sufficeint [sic]" there can be no GRANTING OF Motion to Dismiss.

In separate letter to Judge Reed and attorney Smith the cases for ruling upon judgment on the pleadings is limited to the pleadings and no extraneous materials is allowed in the motion.

CONCLUSION

Plaintiff, Delbert H. Reidt, pro se DEMANDS Judge Reed reopen this closed docket and hold a Rule 16 hearing to discuss all issues of the parties, make a proper judgment on pleadings only for suffieceincy [sic], for Friday, April 20, 2001 at 10:00 a.m. in the morning. *Expedite*!!

Failure or refusal to reopen closed docket for proceedings under Fed. R. Civ. P. 16 will result in mandamus in the United States Court of Appeals for the Ninth Circuit to Order the Chief Judge at Reno to reopen this closed docket and re-assign this case to another judge due to Judge Reed's obvious prejudice and bias against this plaintiff pro se. This case should have been settled amicably and in GOOD FAITH by defendants 20 years ago instead of causing so much "emotional injuries" to this plaintiff.[1]

---

[1] It would be frivilous [sic] on the part of the Court to order me to file a new complaint. The matter in this court has been fully paid for and service paid for. Furthermore, at the Status Conference I would be willing to dismiss charges against Judge Ingram. However, the claim that Judge Ingram refused to correct the evidence before this Court in my August 18, 2000 Motion for Judgment By Default shows the records that require correction, and part of the sanctions against defendants' lack of Good Faith will be to Order them to fund my Social Security

Dated: March 27, 2001 RESPECTFULLY DEMANDED

/s/ Delbert H. Reidt
Delbert H. Reidt pro se
(enlightened)

SUPREME COURT OF THE UNITED STATES
OFFICE OF THE CLERK
WASHINGTON, DC 20543-0001

WILLIAM K. SUTER **AREA CODE 202**
CLERK OF THE COURT **479-3011**

March 23, 2001

Delbert H. Reidt
530 East Patriot Blvd.
Apt. K-230
Reno, NV 89511

RE: In Re Delbert H. Reidt

The application for an extension of time within which to file a petition for a writ of mandamus in the above-entitled case was postmarked March 20, 2001 and received March 22, 2001. The application is returned for the following reasons.

Account to raise monthly payments to the maximum, and to raise my pay under 10 U.S.C.A. 1201 from E-2 to E-7 with 75% of that pay for life, and payment of medical insurance for me and my wife for life. There is also the issue of benefits my children were denied, and they would be interested parties. As a result of defendants conduct I have been estranged from my children for 40 years.

There is no jurisdictional time limit within which to file an extraordinary writ.

Sincerely,
William K. Suter, Clerk
By: /s/ S. Elliott
S. Elliott
(202) 479-3025

Enclosures

DELBERT H. REIDT PRO SE
530 EAST PATRIOT BOULEVARD
APT. K-230
RENO, NV. 89511
TEL. (775) 852-4643

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

DELBERT H. REIDT, Plaintiff, v. UNITED STATES OF AMERICA; DEPARTMENT OF TRANSPORTATION BOARD FOR CORRECTION OF MILITARY RECORDS; LT. DAVID J. FAJERSKI FOIA/PA OFFICER U.S. COAST GUARD; SECRETARY, DEPARTMENT OF TRANSPORTATION; U.S. DISTRICT JUDGE WILLIAM A. INGRAM, Defendants.	NO. CV-N-00- 1. PERSONAL INJURY: HEAD TRAUMA AND CONCUSSION; EMOTIONAL INJURIES: 2. VIOLATIONS OF THE FOIA/PA JURY TRIAL DEMANDED THIRTY MILLIONS [sic] DOLLARS ($30,000,000.00) DEMANDED IN ACTUAL, COMPENSATORY AND PUNITIVE DAMAGES CV-N-00-0297-ECR-VPC (Filed Jun. 5, 2000)

I.

JURISDICTION

The Court hss [sic] jurisdiction to hear this case under 28 U.S.C.A. 1346(b), 28 U.S.C.A. 2674, 5 U.S.C.A. 552a(d) (1)-(d) (3), (g) (1)-(g) (4), 10 U.S.C.A. 1201, 10 U.S.C.A. 1214, 10 U.S.C.A. 1219, 10 U.S.C.A. 1552(a)-(e), the Federal Rules of Civil Procedure, the Federal Rules of Evidence and the Local Rules for the (N) District for Nevada.

II.

ACCORDING TO PROOF: Plaintiff Delbert H. Reidt appearing pro se respectfully alleges the following set of factual issues:

> In March 6, 2000 letter the following defendants refused to act in the best interests of justice thereby negligently refusing to "freely give leave to plaintiff" to re-instate factual allegations prematurely disposed of in previous cases without full and fair adjudication. Such negligence adversely effected the mental health and well being of plaintiff: Lt. David Fajerski, Board for Correction of Military Records, Secretary of Transportation. Fed. R. Civ. P. 8(a), 15(a), (d), 16, 54(b), 28 U.S.C.A. 2674, 28 U.S.C.A. 1346(b), 5 U.S.C.A. 552a(g) (1)-(4);

III.

> In same March 6, 2000 letter, defendants Lt. David Fajerski, Board for Correction of Military

Records, Secretary of Transportation, negligently refused to act in the best interest of justice thereby refusing to give plaintiff free leave to state claims upon which relief can be granted for 48 years of pain and sufferring [sic], mental anguish, emotional trauma and distress, post service loss of wages due to plaintiff's inability to engage in gainful, substantial employment opportunities which were inadvertently omitted by plaintiff in previous cases, Fed. R. Civ. P. 8(a), 15(a), (d), 16, 54(b), 28 U.S.C.A. 2674, 28 U.S.C.A. 1346(b), 5 U.S.C.A. 552a(g) (1)-(4), 10 U.S.C.A. 1552(b);[1]

IV.

On March 16, 2000 letter to the Correction Board, I sent them the following: 1. Clinical Record: Doctor's Progress Notes showing the

---

[1] For a discussion about "emoitonal trauma" as meeting the burden of proof for damages, see: Emotional trauma alone is sufficeint [sic] to qualify as an adverse effect, establishing right to civil remedy upon proof of emotional injuries cased [sic] by government's wrongful act. *Albright v. United States* (1984) 235 App. DC 295, 732 F.2d 181. This did not apply in cases against the Department of Veterans Affairs because VA has no power to correct records. *Andrews v. Veterans' Administration of United States* (CA 10) Wyo 838 F.2d 418, 3 BNA IER Case 1274, cert. den. (US) 102 L.Ed 2d 35, 109 S. Ct. 56, 3 BNA IER Cas 1344). As I have always complained Judge Ingram has no statutory jurisdiction or authority to order the Veterans' Admin. to pay me anything. It is the Correction Board who must correct all records under 10 U.S.C.A. 1552 in the best interests of justice and they refused in letter of March 16, 2000 I sent them. They never answered my request to correct. Ergo, Judge Ingram's order in NO. C89-20527WAI (D.C. DN CA Reidt v. DVA) is clearly erroneous.

diagnosis of plaintiff by a Dr. Lash showing some sort of phobic disorder; 2. Clinical Record Brief: Manifold Admission Form; 3. Clinical Record: Narrative; 4. Final Medical Certificate, all taken from Public Health Service Microfilm Reel 72-884. Plaintiff demanded the Correction Board, in the best interests of justice, in order to remove an injustice, 10 U.S.C.A. 1552(b), 5 U.S.C.A. 552a(d) (2), (g) (1), (B), (C), (D), (g) (2) (A), (g) (4), correct items 2 and 4 to include the diagnosis found in item 1 herein negligently omitted by unknown officials at Public Health Service Hosptial [sic] cited herein in 1952 therefrom items 2 and 4. The Correction Board refused to timely act on my letter of March 16, 2000. Their timely resudal [sic] to act inflicted further adverse effect to plaintiff's mental health and physical well-being. Fed. R. Civ. P. 8(a), 15(a), (d), 16(e), 54(b), 28 U.S.C.A. 1346(b), 28 U.S.C.A. 2674, 5 U.S.C.A. 552a(g) (1)-(g) (4).

V.

On March 16, 2000 plaintiff forwarded a letter to a Judge[2] Ingram requesting permission to act in the best interests of justice and freely give me leave to amend the pleadings and re-instate claims prematurely disposed of without full and

---

[2] Plaintiff believes Health and Human Service, Dep't of Veterans' Affairs, and Public Health Service are not proper defendants. The only defendants authorized to act by law are: the Correction Board, the FOAI/PA officer, and the Secretary of Transportation are the only parties to this action. Judge Ingram's conduct makes him a defendant for his negligent conduct. Federal Judges are not immune from prosecution for allegations of negligence. United states pays the bills.

fair adjudication. Defendant Ingram has refused to respond to my letter. His conduct was negligent and against law and had an adverse effect on the mental health and physical well-being of the plaintiff. Fed. R. Civ. P. 8(a), Fed. R. Civ. P. 15(a), (d), 16(e), 54(b), 28 U.S.C.A. 1346(b), 28 U.S.C.A. 2674, 5 U.S.C.A. 552a(d) (1)-(d) (3), (g) (1)-(g) (4).

VI

Defendant Judge William A. Ingram also negligently refused to act in the best interests of justice and refsued [sic] to freely give plaintiff leave to state claims upon which money relief can be granted which were inadvertently omitted from No's C-89-20510, C-89-20526WAI, C-89-20527WAI, and stated in letter to Defendant Ingram in letter of March 16, 2000. Plaintiff had believed that he did not have to state claims for relief at pre-trial, only at trial. Defendant Ingram's refusal to act on letter of March 16, 2000 inflicted more adverse effect to the mental health and physical well-being of plaintiff. Fed. R. Civ. P. 8(a), Fed. R. Civ. P. 15(a), (d), 16(e), 54(b), 28 U.S.C.A. 1346(b), 28 U.S.C.A. 2674, 5 U.S.C.A. 552a(d) (1)-(d) (3), (g) (1)-(g) (4).

VII

In March 16, 2000 plaintiff renewed de novo requests for access to Privacy Act records systems DOT/CG 572 and DOT/CG 629 for inspection and photocopying therefrom and Lt. David Fajerski FOIA/PA Co-ordinator once again intentionally and willfully refused to answer my request for access to records thereby causing further adverse effect to plaintiff's mental health

and well being. Fed. R. Civ. P. 8(a), 15(a), (d), 16, 34, 54(b) LR 34-2, 28 U.S.C.A. 2674, 28 U.S.C.A. 1346(b), 5 U.S.C.A. 552a(d), (g) (1)-(4).

VIII

District Judge William A. Ingram was negligent in that he refused to enter into evidence in No. C-89-20527WAI(D.C. ND CA) the Doctor's Progress Notes on Clinical Record; Clinical Record Brief: Manifold Admission Form; Clinical Record: Narrative Summary; Final Medical Certificate from PHS Microfilm Reel No. 72-884 thereby having an adverse effect on the plaintiff's mental health and well being. Fed. R. Evi. 803.3, 803.4, Fed. R. Civ. P. 8(a), 15(a), (d), 16, 34, 54(b), LR 34-2, 28 U.S.C.A. 2674, 28 U.S.C.A. 1346(b), 5 U.S.C.A. 552a(g) (1)-(4).

IX

District Judge Ingram was negligent in that he refused to order production of Privacy Act record systems DOT/CG 572 and DOT/CG 629 for inspection and photocopying therefrom thus having an adverse effect on the mental health and well being of plaintiff, Fed. R. Civ. P. 8(a), 16, 26(c), 34, LR 34-2, 5 U.S.C.A. 552a(g) (1) (B), (g) (3) (A), (g) (1) (C), (g) (4) (A), 28 U.S.C.A. 2674, 28 U.S.C.A. 1346(b).

X

While plaintiff was a patient at United States Public Health Service Hospital Seattle, Wa. on medical leave from the Coast Guard the Public Health was acting as an agent for U.S. Coast Guard undergoing psychiatric treatment and

evaluation unknown Public Health Official negligently withheld from plaintiff the diagnosis of plaintiff by Dr. Lash shown on the Doctor's Progress Notes from the clinical Record. Such negligence had an adverse effect on the mental health and well being of plaintiff. Fed. R. Civ. P. 8(a), 15(a), (d), 54(b), 28 U.S.C.A. 2674, 28 U.S.C.A. 1346(b).

XI

The Department of Transportation Board for Correction of Military Records (Correction Board) was negligent in that it refused to act in the best interest of justice to correct that error in Count X and remove that injustice from plaintiff's military records. DOT/CG 629, Fed. R. Civ. P. 8(a), 15(a), (d), 16, 54(b), 10 U.S.C.A. 1552(b), 28 U.S.C.A. 2674, 28 U.S.C.A. 1346(b), 10 U.S.C.A. 1552(b), 28 U.S.C.A. 2674, 28 U.S.C.A. 1346(b), 5 U.S.C.A. 552a(d), (g) (1)-(4). Such negligence had an adverse effect on the mental health and well being of the plaintiff.

XII

District Judge William A. Ingram was negligent in that he refused to fully and fairly adjudicate Counts X, XI thereby having an adverse effect on the mental health and well being of the plaintiff. Fed. R. Civ. P. 8(a), 15(a), (d), 16, 54(b), 28 U.S.C.A. 2674, 28 U.S.C.A. 1346(b), 5 U.S.C.A. 552a(d), (g) (1)-(4).

XIII

Sometime between Dec. 17, 1951 and March 1, 1952 plaintiff had a severe concussion injury to

his head when a large object fell on his head for which he was treated at the Coast Guard Informary [sic] at Government Island. Said injury was caused by the neglgience [sic] of an unknown person who left the object in a dimly lit space. Said physical injury had a severe and adverse effect on the mental health and well being of the plaintiff. DOT/CG 572, Fed. R. Civ. p. 8(a), 15(a), (d), 16, 54(b), 28 U.S.C.A. 2674, 28 U.S.C.A. 1346(b), 5 U.S.C.A. 552a(d), (g) (1)-(4).

XIV

The Correction Board was negligent in that it refused to correct the error in Count XIII and remove that error in the best interests of justice thereby having further adverse effect on the mental health and well being of plaintiff. DOT/CG 572, Fed. R. Civ. P. 8(a), 15(a), (d), 16, 54(b), 10 U.S.C.A. 1552(b), 28 U.S.C.A. 2674, 28 U.S.C.A. 1346(b).

XV

District Judge William A. Ingram was negligent in that he refused to fully and fairly adjudicate XIII and XIV above thereby having further adverse effect on the mental health and well being of plaintiff. Fed. R. Civ. P 8(a), 15(a), (d), 16, 54(b), 28 U.S.C.A. 2674, 28 U.S.C.A. 1346(b), 5 U.S.C.A. (d), (g) (1)-(4).

XVI

District Judge William A. Ingram was negligent for failure to award me a sum certain on His Dec. 14, 1989 Order to file summary judgment which I refused. Judge Ingram's deputy Don

Ballah called me in Feb. 1990 and told me if I allowed Judge Ingram to enter final judgment he would be very generous. When I asked how generous He refused to disclose sum certain. Such negligence has really had a devastating effect on plaintiff causing much emotional trauma. Fed. R. Civ. P. 8(a), 15(a), (d), 16, 54(b), 28 U.S.C.A. 2674, 28 U.S.C.A. 1346(b).

XVII

Plaintiff alleges the Court assigned this case must award a sum certain in order to avoid further emotional trauma to plaintiff. Fed. R. Civ. P. 8(a), 15(a), (d), 16(e), 54(b), 28 U.S.C.A. 2674, 28 U.S.C.A. 1346(b).

XVIII

At all times the Secretary of Department of Transportation was negligent in that he refused his legally constituted authority to end this controvery [sic] and failed or refused to interfere thereby not acting in the best interests of justice to correct and act on the alleged factual issues in this case. 10 U.S.C.A. 1552(a)-(e), Fed. R. Civ. P. 8(a), Fed. R. Civ. P. 15(a), (d), 16(e), 54(b), 28 U.S.C.A. 2674, 28 U.S.C.A. 1346(b), 5 U.S.C.A. 552a(d) (1)-(3), (g) (1)-(g) (4).

XIX

Plaintiff was seen by the Board of Medical Survey in May, 1952 who diagnosed plaintiff as having an inadequate personality of a schizoid type. But plaintiff was not told of his phobic disorder. The Board of Medical Survey is not a

proper board under 10 U.S.C.A. 1214 to determine eligibility for disability retirement and pay. The Board of Medical Survey (BMS) was negligent into misleading plaintiff into signing a waiver to appear before the Physical Evaluation Board and caused 48 years of adverse effect on the mental health and physical well being of plaintiff. Fed. R. Civ. P. 8(a), 15(a), (d), 16(e), 54(b), 10 U.S.C.A. 1214, 10 U.S.C.A. 1219, 28 U.S.C.A. 1346(b), 5 U.S.C.A. 552a(d) (1)-(3), (g) (1)-(4).

XX

The Correction Board was negligent in that in several administrative claims by plaintiff the Correction Board refused to remove the error cited in Count XIX and refused to act in the best interests of justice to correct the 48 year injustice from the Military Records of Plaintiff thereby causing further adverse effects on plaintiff's mental health and physical well being. DOT/CG 629, Fed. R. Civ. P. 8(a), 15(a), (d), 16(e), 54(b), 10 U.S.C.A. 1552(a)-(e), 28 U.S.C.A. 2674, 28 U.S.C.A. 1346(b), 5 U.S.C.A. 552a(d) (1)-(d) (3), 5 U.S.C.A. 552a(g) (1)-(4).

XXI

District Judge William A. Ingram was negligent for failure to adjudicate Counts XIX and XX above thereby causing further adverse effects on the mental health and physical well being of plaintiff. Fed. R. Civ. P. 8(a), 15(a), (d), 16(e), 54(b), 10 U.S.C.A. 1552(a)-(e), 28 U.S.C.A. 2674, 28 U.S.C.A. 1346(b), 5 U.S.C.A. 552a(d) (1)-(d) (3), (g) (1)-(g) (4).

XXII

Public Health Officials in 1952 were negligent in not testing plaintiff for a brain injury called: aphasia thereby causing 48 years of adverse effect on the mental health and physical well-being of plaintiff. Fed. R. Civ. P. 8(a), 15(a), (d), 16(e), 54(b), 10 U.S.C.A. 1552(a)-(e), 10 U.S.C.A. 1201 et al., 28 U.S.C.A. 2674, 28 U.S.C.A. 1346(b), 5 U.S.C.A. 552a(d) (i)-(3), (g) (1)-(g) (4).

XXIII

Public Health Officials in 1952 were negligent in not testing plaintiff with the Minnesota Multiphasic Personality Inventory (MMPI) thereby causing 48 years of adverse effect on the mental health and well-being of plaintiff. 10 U.S.C.A. 1201, 10 U.S.C.A. 1552(a)-(e),[3] Fed. R. Civ. P. 8(a), 15(a), (d), 16(e), 54(b), 28 U.S.C.A. 2674, 28 U.S.C.A. 1346(b), 5 U.S.C.A. 552a(d) (1)-(d) (3), (g) (1)-(g) (4).

XXIV

Plaintiff alleges that in accordance with 10 U.S.C.A. 1552(a) he did not discover the historical error or injustice until Senator Mike

---

[3] Plaintiff respectfully asks the Court to hold this pro se to less stringent standards in the drafted pleadings than in pleadings drafted by attorneys. *Haines v. Kerner*, 404 U.S. 519, 920, 521 (1972). Moroever [sic], plaintiff believes that in this complaint, other cases and complaints notwithstanding, that a motion for judgment on these pleadings, and not some pleadings, from a previous case where the Judge refused to amend pleadings, plaintiff will prevail this time.

McCloskey's Office ordered Public Health Service Hospital to furnish plaintiff with a copy of PHS Microfilm Reel 72-884 in Oct. 1981. Plaintiff promptly, and within the 3 year time limit commenced removal or correction of the historical error with the Corrections Board 10 U.S.C.A. 1552(a)-(e). Plaintiff's action was timely filed with the Correction Board.

XXV

The Correction Board (Dep't of Transportation) was negligent for failure to act favorably in order to remove the injustice and correct the errors on the Clinical Record: Doctor's Progress Reports; Clinical Record: Narrative Summary; The Final Medical Certificate from Public Health Microfilm Reel 72-884 to include Dr. Lash's diagnosis on records it was negligently omitted therefrom. 10 U.S.C.A. 1552(a)-(e), Fed. R. Civ. P. 8(a), 15(a), (d), 16(e), 54(b), 28 U.S.C.A. 2674, 28 U.S.C.A. 1346(b), 5 U.S.C.A. 55a(d) (1)-(d) (3), (g) (1)-(g) (4). Further adverse effect was visited on plaintiff to his mental health and physical well-being.

XXVI

District Judge William A. Ingram was negligent for not adjudicating Counts XXII-XXV above thereby causing further adverse effects on plaintiff's mental health and physical well-being. Fed. R. Civ. P. 8(a), 15(a), (d), 16(e), 54(b), 28 U.S.C.A. 2674, 28 U.S.C.A. 1346(b), 5 U.S.C.A. 552a(d) (1)-(d) (3), (g) (1)-(g) (4).

XXVII

Further negligence on the part of District Judge William A. Ingram is that he has yet, after 10 years, refused to enter a final judgment on the merits in support of his summary judgment of Dec. 14, 1989. See: Page 94 in *Allen v. McCurry*, 449 U.S. 94 (1980), ergo, the Court assigned this case is not required to re-affirm the summary judgment of Judge Ingram which has cause [sic] further adverse effects to the mental health and physical well-being of plaintiff. Fed. R. Civ. P. 54(b), Fed. R. Civ. P. 8(a). Plaintiff further alleges that had plaintiff agreed to the terms of the summary judgment of Judge Ingram Judge Ingram would have entered final judgment on merits.

XXVIII

Defendant Ingram was negligent in that he recognized an invalid claim from plaintiff that is immaterial and irrelevant to the material facts in this case. Plaintiff's allegation that the diagnosis of him by the Board of Medical Survey incomplete because it failed to take into account the diagnosis of plaintiff by a Dr. Lash is not a valid claim because neither diagnosis is required to take account of each other. They are separate and independent diagnoses. Such negligence on the part of Judge Ingram inflicted further adverse effect on plaintiff's mental health and physical well-being. Fed. R. Civ. P. 8(a), 28 U.S.C.A. 1346(b), 28 U.S.C.A. 2674, 5 U.S.C.A. 552a(d) (1)-(d) (3). Please read Exhibit 1.

XIX [sic]

Because plaintiff was an inexperienced pleader Judge Ingram was further negligent in not granting plaintiff's many requestes [sic] to amend the pleadings in the best interes [sic] of justice and freely give leave to amend the pleadings. Fed. R. Civ. P. 15(a), (d), 16 (e), 54(b), 28 U.S.C.A. 1346(b), 28 U.S.C.A. 2674, 5 U.S.C.A. 552a(d) (1)-(3), (g) (1)-(g) (4).

XXX

Judge Ingram was negligent for not providing plaintiff an opportunity to restate the claim as:

Plaintiff alleges there is a historical error in the Clinical Record: Manifold Admissions Form and the Final Medical Certificate in that these documents take into account the diagnosis of plaintiff by the Board of Medical Suvery [sic], but are incomplete because they do not include the diagnosis of plaintiff by Dr. Lash shown on Clinical Record: Doctor's Progress Reports which Public Health Service officials negligently omitted therefrom, and defendant Correction Board negligently, intentionally and willfully refused to correct under either 10 U.S.C.A. 1552(b) or 5 U.S.C.A. (d) (1)-(d) (3) in order to remove an injustice and correct a historical error thereby inflicting adverse effect to the mental health and physical well-being of plaintiff. Fed. R. Civ. P. 8(a), 15(a), (d), 16(e), 54(b), 28 U.S.C.A. 1346(b), 28 U.S.C.A. 2674, 5 U.S.C.A. 552a(g) (1)-(g) (4).

XXXI

As a result of all defendants negligent, wrongful acts, omissions to act, intentional or willful conduct relating to the alleged factual issues in this complaint, ohter [sic] complaints notwithstanding due to immateriality and/or irrelevancy, all defendants' actions are the legal or proximate cause of physical injury and damages to the plaintiff thereby incurring the strict liability of the United States, who pays the bills, and judgments, for money damages for 48 years of pain and sufferring [sic] including mental anguish, emtoional [sic] trauma, emtotional [sic] stress, daily anxiety and panic attacks from an unknown phobic disorder, post servcie [sic] loss of wages due to the inability of plaintiff to engage in gainful, substantial employment opportunities, and for loss of post service medical treatment for service incurred head trauma and phobic disorder. Fed. R. Civ. P. 8(a), 28 U.S.C.A. 2674, 28 U.S.C.A. 1346(b), 5 U.S.C.A. 552a(g) (4).

XXXII

WHEREFOR [sic]: **JUDGMENT IS ENTERED FOR PLAINTIFF AND AGAINST ALL THE DEFENDANTS; PLAINTIFF DELBERT H. REIDT DEMANDS $30,000,000.00 (THIRTY MILIONS [sic] DOLLARS) IN ACTUAL, COMPENSATORY, AND PUNITIVE DAMAGES;** and to whatever other relief the Court deems proper and just in this case.

XXXIII

DECLARATION OF DELBERT H. REIDT

The complaint filed in this case is not meant to be vexatious or malicious. Nor does plaintiff wish to denigrate the personal character of any defendant. The sole purpose of this complaint is to ring to the attention of the Court the negligent or wrongful acts or omissions to act, and intentional or willful conduct of each and every defendant.

Dated: June 5, 2000

Respectfully submitted,

/s/ Delbert H. Reidt
Delbert H. Reidt pro se

EXHIBIT 1

MAY 30, 2000

Delbert H. Reidt Pro Se
530 East Patiot [sic] Boulevard
Apt. K-230
Reno, NV. 89511
Tel. (775) 4643 [sic]

To: District Judge William A. Ingram
U.S. District Court for Northern California
U.S. Court House
280 South First St.
San Jose, CA.95113

Re: Reidt v. San Fran. Regional Officer, Dep't Vets. Aff'ars, et als. C-89-20527WAI et als.

Dear Judge Ingram,

This is to let you know that on June 12, 2000 I will file suit in District Court for Northern Nevada at Reno, NV. alleging you negligenty [sic] recognized an invalid claim from me that is immaterial and irrelevant to the material facts.

That your negligence adversely effected [sic] my mental health and physical well being thereby incurring the strict liability of the United States for you [sic] negligent or wrongful act or omission to act. Pain and sufferring [sic], emotional trauma, et als. is burden of proof.

My claim that the diagnosis by the Board of Medical Survey is incomplete because it fails to take into account a diagnosis of plaintiff by Dr. Lash is a claim. This claim is immaterial and irrelevant because neither diagnosis has to be part of the other diagnosis.

What is relevant to the material facts showing a historical error is that the Clinical Record:Manifold Admission

Form; and the Final Medical Certificate are incomplete because while those documents show the diagnosis of the Board of Medical Survey, they are incomplete because they do not show the diagnosis of plaintiff by Dr. Lash on the Clinical Record: Doctor's Progress notes and defendants' negligently omitted therefrom Dr. Lash's disgnosis [sic], and the Correction Board failed to correct this error and removes this injustice from plaintiff's military records thereby incurring the strict liability for money damages for pain and sufferring [sic]; mental anguish, emotional trauma, emotional stress, daily anxiety and panic attacks, post service loss of wages due to plaintiff's inability to engage in gainful employment, and post service loss of medical treatment for service-incurred injuries. Fed. R. Civ. P. 8(a), 15(a)(,(d), 16(e), 54(b), 28 U.S.C.A. 1346(b), 28 U.S.C.A. 2674, 28 U.S.C.A. 552a(d)(1)(1)-(d)(3), (g)(1)-(g)(4). 10 U.S.C.A. 1552(b).

I am going to ask the district court at Reno to rule your summary judgment is immaterial and irrelevant to the case.

CC: William F. Murpyh [sic]
U.S. attorney at Reno, NV.

/s/ Delbert H. Reidt

MARCH 26, 2001

From: Delbert H. Reidt pro se
530 East Patriot Boulevard
Apt. K-230
Reno, NV. 89511
Tel. (775) 852-4643

To: District Judge
Edward C. Reed, JR.
U.S. District Court
U.S. Court House
400 South Virginia
Reno, NV. 89501

and Shirley Smith,
Attorney
U.S. Attorney's Office
Suite 600
100 West Liberty
Reno, NV. 89501

Re: Reidt v. U.S.A. et als, No. CV-N-00-0297ECR

To The Above Parties,

You are in violation of Fed. R. Civ. P. 12(b) motion to dismiss.

On a straight motion to dismiss Judge Reed can only read the complaint for legal sufficeincy [sic]. Is the complaint legally sufficeint [sic]? There can be no extraneous matters raised on a straight motion to dismiss. I believe the complaint to be legally sufficeint [sic] to bar the motion to dismiss in this case.

Extraneous matter on a motion to dismiss has to be treated as a motion for summary judgment which I would oppose until after discovery has been completed.

The foregoing procedure has been denied me since 1984. It is time to stop this departure which has deprived me full and fair adjudication on the Pre-Trial Order required by Fed. R. Civ. P. 16.

The following cases support my claim that a straight motion to dismiss can only relate to the pleadings in the

complaint: *Samara v. United States*, C.C.A. 2(1942) 129 F.2d 594, cert. den. 63 S.Ct. 258, 317 U.S. 686, 87 L. Ed. 549; *Boro Hall Corp. v. General Motors*, C.C.A.2 1942, 124 F.2d 822, cert. den. 63 S.Ct. 63. S.Ct. [sic] 436, 317 U.S. 695, 87 L.Ed. L.Ed. [sic] 556; *Kithcart v. Metropolitan Life Ins.* Co., C.C.A.8, 1945, 150F.2d 997.

Both of the parties subject of this letter have been served with my Application for Extension of Time in Which to File in the United States Supreme Court. A copy of this letter will be in the appendix, or as a response should the Higher Court issue an Order to show cause why It should not intervene. I suggest Judge Reed on his own motion re-open this closed docket for and issue an order citing the issues in the complaint for sufficiency. Maybe this case can be finally resolved.

Your co-operation is appreciated,

/s/ Delbert H. Reidt
Delbert H. Reidt pro se

TO THE CLERK, NINTH CIRCUIT REFER THIS TO FILE NO. C-92-80380 (IN RE: DELBERT H. REIDT, RESPONDENT)

March 30, 2001

From: Delbert H. Reidt Pro Se
530 E. Patriot Boulevard
Apt. K-230
Reno, NV. 89511
Tel. (775) 852-4643

To: Judge Aguilar in No. C-84-20566, Judge Ingram in No. C-88-20720 et als., Judge Whyte in No. C-94-20180, Judge Dwyer in No. C-96-344, Judge Zilly in No. C-97-276, JUdge [sic] Coughenour in No. C-98-1724, and Judge Reed in No. CV-N-00-0297:

Re: Motions Under Fed. R. Civ. P. 12(b)(6) before each Judge at one time or another

To the above named Judges,

Each of the above Judges has dismissed my several complaints for failure to state a claim.

However, none of the above named Judges would ever issue any order citing each and every count in the complaint as to whether or not the complaint was legally sufficeint [sic] to bar dismissal.

Extraneous matter is not allowed in a judgment on the merits.

My question to each and every judge name above is: Was my complaint which each and every one of you held jurisdiction over legally sufficeint [sic] to proceed? Yes__ NO__.

I have highlighted in yellow each Judge sent a copy on his copy.

These continued refusals to issue a proper judgment on the merits on the pleadings is going to be brought to the attention of the United States Supreme Court on a petition [sic] for an extraordinary writ to review each and every case as to whether my complaints were legally sufficeint [sic] to bar dismissal.

Feres immunity, res judicata, defendants claim no records can be found, etc., are all affirmative defenses which are required to be placed on the Pre-Trial order for proof at trial. No such pre-trial order was ever issued in any of the above cited cases.

Isn't it also true that only those issues appearing on the Pre-trial order the only issues to which *res judicata* has any application?

Your reply is welcomed,

/s/ Delbert H. Reidt
Delbert H. Reidt Pro Se

Attachment: March 27, 2001 motion to Judge Reed to re-open No. CV-N-00-0297 for a proper judgment on the pleadings for legal sufficeincy [sic] and for Pre-trial order on which claims are adjudicated. Well, Ninth Circuit: Was my previous complaints legally sufficeint [sic]?

APPENDIX 4

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

In re: Delbert H. Reidt, Petitioner.	NO. CV-01-_____ ON APPLICATION FOR WRIT OF MANDAMUS AS AN AID IN APPELLATE JURISDICTION TO REVIEW NO. CV-N-00-0297ECR COMPLAINT FOR LEGAL SUFFICEINCY [sic], FED. R. CIV. P. 8(a) PROOF OF SERVICE

(Filed Apr. 20, 2001)

I, Delbert H. Reidt, the undersigned, declare under penalty of perjury, 28 U.S.C.A. 1746, that: I am a person of such age and discretion competent to serve papers; that my home address is: 530 East Patriot Boulevard, Apt. K-203, Reno, NV. 89511; that my home phone is: (775) 852-4643; that on April 18, 2001, and in accordance with Ninth Circuit Rule 21-1, Fed. R. App. P. 21(a)(b), and Fed. R. Civ. P. 5(d), I did serve by first class mail, and in separate envelopes with postage pre-paid, the following: PROOF OF SERVICE and PETITION FOR WRIT OF

MANDAMUS on the parties below by depositing true copies in the United States Postal Service as follows:

1 copy to all parties:

District Judge
Edward C. Reed, Jr.
U.S. District Court
for Nevada
U.S. Court House
400 S. Virginia
Reno, NV. 89501

In seaprate [sic] envelopes:
District Judges
Robert P. Aguilar,
William A. Ingram,
Ronald M. Whyte
U.S. District Court, ND CA
280 South First St.
San Jose, CA. 95113

in separate envelopes
District Judges
William L. Dwyer,
Thomas Zilly,
John C. Coughenour
U.S. District Court WWS
1010 Fifth Avenue
Seattlem [sic] WA. 98104

Shirley Smith-Attorney
U.S. Attorney's Office
Suite 600
100 West Liberty
Reno, NV. 89501

Current Chairman,
Board for
Correction of
Military Records
(C-60), Office of the
Secretary
Office of the
General Counsel
Dep't Of Transportation
400 Seventh St. S.W.
Washington, D.C. 20590

Norman Mineta, Secretary
of Transportation,
Office of the
Secretary., Office of the
General Counsel
400 Seventh St. S.W.
Washington, D.C. 20590

Lt. David Fajerski, FOIA/PA Co-ordinator
U.S. Coast Guard, Staff Symbol G-KRM-3, 2100
2nd Ave. S.W.
Washington, D.C. 20593-0001

Dated: April 18, 2001

/s/ Delbert H. Reidt
Delbert H. Reidt pro se
declarant

APPENDIX 5

Exhibit 2

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

DELBERT H. REIDT, Plaintiff, v. SAN FRANCISCO OFFICE OF THE DEPARTMENT OF VETERANS AFFAIRS, Defendant.	CASE NOS.: C-89-20527-WAI RELATED CASE NO.: C-86-20720-WAI; C-84-20566-RPA; C-89-20508-SAW; C-89-20509-FMS; C-89-20510-WAI; C-89-20526-RFP; C-89-20554-WAI. (Filed Dec. 14, 1989)

In this dispute, plaintiff seeks recovery for defendant's failure to correct his medical records pursuant to the Privacy Act, 5 U.S.C. 552a(d)(3). Defendant moves to dismiss on the grounds that plaintiff has failed to allege any factual or historical error as required by the Act. However, plaintiff's claim that the diagnosis by the Board of Medical Survey was incomplete because it failed to take into account a diagnosis by Dr. Lash is sufficient to state a claim. Therefore, defendant's motion is DENIED.

IT IS HEREBY ORDERED that both parties filed cross-motions for summary judgment within 30 days from the filing date of this order.

DATED: 12-2-89

s/ William A. Ingram
WILLIAM A. INGRAM
United States District Judge